Previous references.

B. Jany 07 88. 3-08. Blanks 7-16. 8-9-10.

(Banking)

File No. 8—09

Serial Nos. 5, 6, 15 & 16

Later references.

Bank 8-09: 88 23-25: B-April 10
B. June 11: 88 12, 13, 19, 20. B. 9-10
B. Sept^r 11 88 5-6. B. 5-11.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 5, 6, 15 & 16.

Part B. for January 1910.

SUBJECT.

A Agricultural Bank at Calicut Malabar.

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1) From The Deputy Comm^r, Kadur dist
No. 105 & 16.7.09.
Solicits sanction to the sale of the
estate of Abdul Khaliq, mortgaged to
Govt, to one Abdul Wahab for Rs 7000 &-

2) To the Deputy Comm^r No. 08207 & 19/10/09
Requests him to report on the solvency
of Abdul Wahab and also whether he is
prepared to offer Collateral Security
for the repayment of the balance of
the purchase money.

15/ From the D.C Kaduna
No. 526 of 12.11.09
Submit the report called for

16/ To the D.C Kaduna. No 7833439 13/10
Informs that the proposals entailing
as they do excessive prolongation
of the encumbrance, are not
acceptable to Govt.

G.R.S.11] 190 9-10

GENERAL AND REVENUE SECRETARIAT

(Bankg

NOTES.

File No. 8

FILE HEADING.

Agricultural Bank at Chikmagalur

From

The Dy Commr, Kadur Dt

No. 105 Dated 16.9.09 Received 19.9.09

Diary No. 1256 Enclos. Nil Spare Copies Serial No. 5

BRIEF ABSTRACT OF LETTER.

Solicits sanction to the sale of the estate of Abdul Khaleq mortgaged to the Mysore Bank to one Abdul Abdul Wahab for Rs 7000/

NOTES AND ORDERS.

U | In the order winding up the copper Banks. this estate is directed to be sold or managed temporarily under Govt agency - shewing that even as early June 05 it was consi-dered

NOTES—First sheet.

GPB—20,000—3-4-07

Serial No.

V

a bad case subsequently
Govt in their order 8/
28th Jany 07 postponed the
sale of this & 5 other estates
mortgaged to the Chik-
madalur Bank on the
recommendation of the
Dy Commr trusting that
this course may induce
the estate owners to im-
prove the condition of their
properties. This had no
effect & the estates contin-
ued to deteriorate fast
& again Govt in their
order 8/5- th May 07
directed their sale in
the usual course by public
auction.

2 The Dy Commr gives complete
particulars of the auction
which proved a failure. The
offer of Abdul Wahab of Rs 7000
for the estate is just twice
the bid received at the public
auction but the period of pay-
ment is spread over 8 years.

NOTE—Contn. sheet.

GPB—50,000—13-5-08

Serial No.

By this transaction Govt will realise about half the principal amount advanced to Abdul Khader Sah the original estate owner. Besides this estate which was hypothecated to the Bank it is reported that there are 2 or 3 houses & a piece of wet land in Chik nayakan Town belonging to Abdul Khader & also owned by his son Abdul Khaliq which are liable to be proceeded against. & this may ultimately realise Something towards the loan yet remaining unsettled.

Subd for Orders.

Dd 30/9 mk 1/10

3 It is not clear from the Dy Commrs letter whether the transaction to which the Sanction of Govt is asked for is to be viewed as a disposal of the Estate by auction or as a transfer of the estate to another person as provided for in instruction

NOTE—Contn. sheet.

GPB—50,000—13-5-08

Serial No.

W

Noted Sanctioned in Ref: 3 16-1-08.

4 If it Shd be taken as the disposal of the property by auction, it Shd be stated that there is not much use by such disposal as we do not get the price offered at the auction, at once and the auction-purchaser is prepared to pay Rs 6000 out of Rs 7000 for which he wants to buy the Estate, only in 8 annual instalments. The advantage of an auction is that the transaction is closed and whatever price the property fetches, is realised at once or immediately soon after the auction. If the auction purchaser is to be permitted to pay the amount of his bid in 8 years, & is able to give no additional security to guarantee his ability to fulfil his ~~pro~~ promise, the transaction is simply tantamount to a transfer of the debt from one debtor to another without in any way improving the position of the creditor, in respect of the means available for getting back his money.

5 Abdul Khaliq owes to Govt about Rs 18000 & if we should now accept Abdul Wahab's offer to sell up the Estate for Rs 7000, the only result

GPB—50,000—13-5-06

Serial No.

of the auction will be that the case for the write off of the balance of Rs 11000 will have been settled and beyond getting a sum of Rs 1000 in cash, the position of Govt in respect of the remainder of the debt of Rs 6000 will in no way have improved as they will have the same security as before for the repayment of the debt & in stead of the promise of the original debtor, that of the next debtor to pay Rs 6000 in 8 instalments.

6 If, on the other hand, the transaction is viewed as one of transfer by sale of the Estate to another person, under instruction no 4 sanctioned in G.O. dy 16-1-08, there are the same defects in it as above noticed above and without additional security to be offered by the transferee, there is not sufficient inducement to the creditor to permit a transfer of the debt. f.

7 Abdul Wahab is a relative of Abdul Khaliq and it is apparent from the D.O. letter that it is at the instance of Abdul Khaliq that his relative has offered to buy the Estate for Rs 7000 &

GPB—50,000—13-5-08

Serial No.

the transaction is really of the kind for which provision is made in instruction no 4 referred to in G.O. 9 16-1-08. One very important point in permitting a bimeper is to see if the transferee is solvent but there is no adverteence to this aspect of the matter in the Dy C's letter.

On the whole, it seems, the proposal for bimeperring the estate to Abdul wahab is unacceptable unless the is solvent is and, it also prepared to give good Collateral Security to ensure that at least the amount of Rs 7000 will be realised in full, if Govt shd. forgo the balance of Rs 11000

If however, the transaction is one of disposal at an auction, as desired by the Dy Commr, it seems, the auction purchaser shd. not be allowed a long no of years to repay his debt, and it is best that immediate payment is insisted upon, even tho such insistence may involve some more loss. If a long time for payment

GPB—50,000—18-5-08

Serial No.

of the bid amount is given & the purchaser is able to give no other security for guaranteeing payment than the property purchased by him, we will have obtained a promise which may not be much better than that of the original debtor which we already have.

Genl Secy

mch 8-10-9

10 Please ask the Dy Com^r to report if the intending purchaser is solvent, & is prepared to give adequate security (if so what) for the repayment of the balance of the purchase money.

H Wood Dy 8.10.9

Draft subd

9/10

12 mch 9/10

2.10.9

6 To the Dy Comm^r, Kaduna
No H 2078 of 19-10-09

Requests him to inquire re the solvency of Abdul Wahab & whether he is prepared to offer collateral security for the repayment of the balance of the purchase mon-

NOTE—Contn. sheet.

GPB—50,000—13-5 06

Serial No.

15 From the Dy-Coniner, Kadur
Dz
No 526 D. 12.11.09
Submits the report called for above

B States that Mr Abdul Wahab is Colonel - that he owns coffee lands in the Bhadravathi Tk estimated to be worth 2000/Rs. with the usual usual willing to offer as collateral security - but saddled with the condition that after the payment of ~~first~~ the 2nd instal-ment of 750 Rs in 1911 - the lien on this be released by Govt & that only the original estate of Abdul Khaleq will be security towards the un-realised portion of the sale money thereafter. The Dy Coniner supports the arrangement as the loan would then amount only to Rs 5250 - about the Value of the estate probably - & the sale of which may be proceeded with at

NOTE—Contn. sheet.

GPB—50,000—18-5-08

Serial No.

198a

once in case of default by Abdul Wahab and in clause 2 of the proposed undertaking dated — I humbly request that such sanction may be accorded to the sale.

Submitted for orders

18/11

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14 Please put up a draft sanctioning the Dy Comm's recommendation & requesting him to expedite the subm of the report promised in para 6 of his letter of 16-9-09

26-11-9

Draft submitted

29/11

Agreed Seen

29/11

30-11-9

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15 To Govt advocate M.O. for opinion as to whether a sale on the conditions referred to will be valid &

M.O. 29-7-12-09

Recd file & 2 Memoranda

G. R. S. 12]
General and Revenue Secretariat.

B File No. 8 of 190 9

Serial No.

- easily enforceable without resort to a suit or

COB
7/12/09

F.C. 30
Cabinet 9-12-09

16 The transaction will have to be concluded by 2 documents. One of which will be a deed of conveyance to be executed by the Deputy Commissioner on behalf of Government and the other a mortgage deed executed by the would be purchaser making the unpaid purchase money a charge not only on the property purchased by him but also on his own property which he is willing to give as additional security. If the purchaser fails to pay up the instalments as they fall due, I do not think they can be recovered as a Revenue demand. A clause may be inserted in the mortgage deed authorising the mortgagee (Government) to enter on the property mortgaged and sell the same in satisfaction of the debt due when default is made in the payment of any of the instalments. This power of sale will be confined to the mortgaged property alone but will not enable the Government to seize any other property of the debtor for realising the unrecovered balance. To recover this balance a suit will have to be filed in the usual course.

9 12 09 S. Narayana Rao
Govt adv

Note—Contn. sheet.

GPB—50,000—13-5-08

G. R. S. 12]
General and Revenue Secretariat.

13 File No. 8 of 190 9

Serial No.

Subd
Sd 11/12
Genl Secy)

mrk 11.12.9

Please embody the Govt. advocate's suggestions in the draft for the guidance of the Dy Com^r

WB 13/12/09

14 + 9

18 Draft as ordered above embodying the Govt Advocate's opinion regarding the execution of documents Subd.

The portion about the clause mentioning Govt entry on the property is omitted as condition (2) of the proposed by the Dy Commr seems to cover it. The other portions of the Govt Advocate's opinion is also not entered in the draft as it is for only for the information of Govt

It should be entered in the mortgage & deed - Draft revised. WB

Sd 14/12 Subd Genl Secy)

mrk 16-12-9

Dewan

WB 24/12/09

3662 24/12/09

Note—Contn. sheet.

CTP—30.6.09—15.3.10

The proposals are complicated and

Serial No.

working the encumbrance Expeditiously - Govt propose that Govt should withdraw its encumbrance and allow free play to private capital & enterprise -] Secy of State should be informed that the proposals entailing as they do Expeditious prolongation of the encumbrance are not acceptable to Govt who would prefer that the properties should be put up to sale by public auction & the best advantage - Sd HH Risley 28 Dec 09

20 Issue orders accordy

dd B
3/1/10

Depatch
3-1-10

Draft Letter
4/1/10.

Done
mea 4-1-10

16 To the Dy Commr, Kadur Dt
No H 3349 & 13-1-10
Informs that the proposals entailing as they do expeditious prolongation of the encumbrance are not acceptable to Govt

NOTE—Contn. sheet.

GPB—55,000—27-4-09

1909.10 B.1256

From The Deputy Commr. Kaduna District

To The Secretary to the Govt of Nigeria Gen & Rev. Depts.

Dated 16th
Despatched 17th } Sept 1909.
Received

General No. 105
No.

Enclosure No. nil

Soliciting sanction to the sale of the Estate of Abdul Khalig mortgaged to the Agricultural Bank, for Rs 7000/- to Mr Abdul Wahab on certain conditions

Office of the Deputy Commissioner

Kadur District.

Chikmagalur, the 16th September 1909.

From

K.R.Srinivasa Iyengar, Esquire, M.A.

Deputy Commissioner

To

K.S.Chandrasekhara Iyer, Esquire, B.A.,B.L.,

Secretary to the Government of Mysore,

General and Revenue Departments.

Sir,

I have the honor to submit, for the orders of Government, the following report on the case of Mr. Abdul Khaliq, son of the late Ganjam Abdul Khader Sab, member of the late Chikmagalur Coffee Bank, who has become a defaulter to Government with respect to the payment of the annual instalments of debts due by him to Government on behalf of the Bank.

2. At the time of the winding up of the Chikmagalur Agricultural Bank of 1905-06, Mr.Abdul Khaliq owed to Government on account of the Bank the following sums according to the Auditor's report:-

Towards principal	Rs.13,690-0-0.
Accumulated interest	3,187-8-6
Advance for working expenses	556-0-0
	17,433-8-6

The total annual instalment payable by him on account of these amounts from 1905-06, was fixed at Rs.1,204-10-2. Though 4 instalments aggregating Rs.4818/- were due from Mr.Abdul Khaliq up to June last, he has paid only Rs.500/- up to date, and has not made any attempt to pay up the balance notwithstanding repeated demands.

2. In Government Order No.Fl.5861-4/S.7-06-4 dated 28th

January 1907, this member as also some others had been given the concession that the sale of their estates would be postponed for a period of three years in order to enable them to apply the realizations of the estates for their improvement. But instead of taking advantage of the same, these members allowed their estates to deteriorate, and in consequence I sought the order of Government for the withdrawal of the concession and the Government accordingly in their order No.Fl.7154-6/R.6-08-7 dated 5th May 1909, were pleased to order the same procedure to be applied to them as for the other cases.

3. The properties of Mr.Abdul Khaliq and some other defaulting members were thereupon notified for sale on the 10th instant. Meanwhile, Mr.Abdul Khaliq presented a petition to me representing his difficulties and undertaking to procure somebody to purchase his Coffee Estate for a sum of Rs.5,000/- of which Rs.1000/- would be paid in at once and the balance by annual instalments of Rs.500/-. This offer having been considered by me as too low, Mr.Abdul Khaliq obtained an offer for Rs.6,000/- from Mr.Abdul Wahab, a relation of his. Mr.Pilkington, Inspector of Coffee Estates, whom I consulted in the matter of accepting the above offer, expressed his opinion as follows:- " I consider that Rs.6,000/- is a fair value to put on the estates at the present time. Personally, I would prefer to see the estates put up to auction with this offer of Rs.6,000/- as the upset price, as it is impossible to tell if there will be competition for the land amongst the neighbouring owners, though, as far as I am aware, this is unlikely in this instance.

4. As suggested by Mr.Pilkington, the estate was put up for sale on the 10th instant, along with the properties

of some other defaulting members. Mr.Abdul Khaliq was present at the time and Mr.Abdul Wahab was represented by his son Mr.Abdul Rahim. The highest bid received at the sale was only Rs.3,500/- from one P.F.Noronha; and it was found impossible to secure any better bids for the whole estate as it is situated at a considerable distance from Chikmagalur and is not easy of access, having no road or means of easy communication to it.

Mr.Abdul Rahim, son of Mr.Abdul Wahab, expressed his willingness to raise his offer for the estate to Rs.7,000/- if he were allowed to pay Rs.1000/- at once and the balance in 8 annual instalments commencing from June next. As the offer was considered by Mr.Pilkington and myself as the best that could be had for the estate, it was accepted, and the amount of Rs.1,000/- produced by Mr.Abdul Rahim has been received and placed in deposit.

5. In these circumstances, I beg to recommend that the Government may be pleased to authorize the sale of the estate consisting of the marginally noted Survey numbers to Mr.Abdul Wahab for the sum of Rs.7,000/- on the following conditions:-

		Extent		Assessment
Survey No.	13/2	1A	8G	Rs.1-14-0
"	59	44	2	44- 0-0
"	85	24	29	25- 0-0

i. that Mr.Abdul Wahab binds himself to Government by an agreement to pay up regularly and punctually the balance of Rs.6,000/- still due from him with interest at 4 per Cent. per annum, by eight equal annual instalments, each instalment falling due on or before the 30th June of each year - the 1st instalment, however, being payable before the end of February 1910.

ii. that in case Mr.Abdul Wahab fails to pay up any instalment regularly and punctually as agreed above, or if he allows the estate to deteriorate by not doing all that may be necessary for its proper upkeep, the full

amount of the outstanding loan will become due at once and will be recoverable by the sale of the estate; and,

iii. that Mr.Abdul Wahab agrees to bind himself to Government to allow proper facilities to the Deputy Commissioner or other Officer of Government for inspecting the estate from time to time, in view to seeing that it is kept up in good condition.

6. Besides the Coffee Estates proposed to be sold to Mr.Abdul Wahab as above, Mr.Abdul Khaliq is reported to own a wet land and 2 or 3 houses in Chikmagalur town, none of which has been hypothecated to the Bank. The question of proceeding against them for the balance of loan due from Mr.Abdul Khaliq is under consideration and a separate report will be submitted thereon to Government at an early date.

I have the honor to be,

Sir,

Your most obedient servant,

Deputy ~~Commissioner~~,

Kadur District.